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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/153,621	09/15/1998	ROGER Q. SMITH	P-US-TN1444	5790

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EXAMINER

DINH, TUAN T

ART UNIT PAPER NUMBER

2827

DATE MAILED: 11/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/153,621

Applicant(s)

SMITH, ROGER Q.

Examiner

Tuan T Dinh

Art Unit

2827

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated Healey (U. S. Patent 4,480,809).

As to claim 1, Healey discloses an audio-equipment (instrument equipment such as sonar type depth indicating instrument or the like, column 1, lines 7-8) as shown in figures 1-2 comprising:

a housing (10-figure 1, column 2, lines 18);

an audio circuitry inherently to the sonar (not shown) installed within the housing;

and

a first protective bar (16, column 2, line 25) flexibly connected (34, column 2, line 59) to the housing (sidewall 24 of housing 10-see figure 1). The bar is protective because it protects the housing from impact from underside of the housing.

As to claim 2, Healey discloses the audio equipment as shown in figures 1-2 further comprising a handle (14, column 2, line 22) attached (see figure 1) to the first protective bar (16).

As to claim 3, Healey discloses the audio equipment as shown in figures 1-2 further comprising a connector assembly (34, column 2, line 59) connecting the first protective bar (16) to the housing (10).

As to claims 4 and 5, Healey discloses the equipment as shown in figures 1-2 wherein the connector assembly (34) comprises a flexible gasket (30-figure 2, column 2, line 49), said flexible gasket disposed between the first protection bar (16) and the housing (sidewall 24 of housing 10).

As to claim 6, Healey discloses the audio equipment as shown in figures 1-2 further comprising a second protective bar (16, column 2, line 25) flexibly connected to the housing (the other side of the housing 10, bracket 12 having two bars 16 connecting by ends of base 14).

Response to Arguments

Applicant's arguments filed 9/9/02 have been fully considered but they are not persuasive.

Applicant argues:

(a) Applicant relies upon on MPEP 2112, at 2100-51 that the establish inherence, "the extrinsic evidence" must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be recognized by persons of ordinary skill.

Healey does not disclose "an audio circuitry" by applicant relied upon on MPEP 2112, at 2100-51

(b) Healey does not show "the protective bar flexibly connected to the housing."

(d) Applicant relies in the specification that "the protective bar is provided to protect the housing from being destroyed at a jobsite of: (1), tools being dropped on the housing, or (2), the radio falling down."

(e) Healey shows a base (14) that does not serve to protect for housing or flexibly connected to the housing, based on the argue (d).

(f) Healey shows the base (14) not flexibly connected to the housing. Also, because the washers (30, 38) are so compressed that they cannot absorb any shock force occurring from: (1) tools being dropped on the housing, or (2) the housing falling down.

Examiner disagrees.

Response to argument (a), Healey shows a instrument housing such as a sonar typed depth indicating instrument **or the like** (column 1, lines 7-8), the instrument housing is a device to product/perform a music (see Merriam Webster's Colligate Dictionary, page 606, column 2, page 607, column 1). The sonar typed instrument device is made of sounds or musical; therefore, the instrument device includes some types of audio card/board to product the sounds or music. Thus, the instrument device comprises an audio circuitry within an audio card/board to product the sounds or music.

Examiner believes that Healey is teach the instrument device inherently including the audio circuitry that require by the MPEP 2112, at 2100-51, for example: a computer system must have a motherboard as a main board to operate the system, or a motherboard must have a CPU as a main control module or a memory chip, etc...

Response to argument (b), Healey shows a bracket (12) having upstanding portions (16) as one of a protective bar flexibly connected (34) to a sidewall (24) of a housing (10), see column 1, lines 47-49. The protective bar (16) can protect the housing, at the very least, from the environmental impact like damaging mechanical forces during use or during handling.

Response to argument (d), **applicant fails to claim the contest provision**. Non of the claims 1-6 teach "the protective bar is provided to protect the housing from being destroyed at a jobsite of: (1), tools being dropped on the housing, or (2), the radio falling down."

Response to argument (e), based on the argues (and (d), Healey teaches the protective bar (16) served and flexible connected to the housing (10).

Response to argument (f), **applicant fails to claim the contest provision**. Non of the claims 1-6 teach "the protective bar is provided to protect the housing from being destroyed at a jobsite of: (1), tools being dropped on the housing, or (2), the radio falling down."

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Balson et al. disclose related art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan T Dinh whose telephone number is 703-306-5856. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Talbott can be reached on 703-305-9883. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-1341 for regular communications and 703-305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TD
November 05/, 2002.


DAVID L. TALBOTT
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